IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.3105 OF 2004

IN

SUIT NO.2922 OF 2004

...

Kaira District Co.operative Milk
Producers Union Ltd. & anr. ...Plaintiffs

v/s.

Anmol Ice Cream & Anr. ...Defendants

...

Mr.Salil Shah i/b Gajaria 7 Co. for the Plaintiffs.
Mr.Kevic Setalwad i/b D.H. Shah for the Defendants.

...

CORAM: D.K.DESHMUKH, J.

DATED: 9TH SEPTEMBER,2005

P.C.:

1. After having heard the learned Counsel for both sides and after having gone through the record, I find that there are hardly any similarity either in the name, trademark, carton or the style in which the name is written on the carton. It is further to be seen here that the Plaintiff came to know of the alleged infringement in September, 2003. Notice was issued in October, 2003 and this suit has been filed in September, 2004. No explanation is given for not filing the suit in time.

2. Taking overall view of the matter, therefore, in my opinion, this is a frivolous notice of motion taken out by the Plaintiff. Notice of Motion disposed of. Plaintiff is directed to pay costs of this Notice of Motion to the Defendant. Costs are quantified at Rs.20,000/-.

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